EXHIBIT B

WATER RIGHT NO. 01-02017

State of Idulys

License and Certificate of Water Right?

Water License No. 4158		Amount 1400 900 ft
Water District No70		Priority 9-3-1908
THIS IS TO CERTIFY that	American Falla Pom	ver Company
of Pocatello, Idaho	, made applicat	ion for a permit to appropriate the
public waters of the State of Idaho, dated	September 3 , 190	0 ; that Permit No. 4160
was issued under said application; that Certific	rate of Completion of works	with a carrying capacity of 60
second feet, was issued thereunder on	December 17	, 19 13 , showing that said works
were completed on the 26th day of	Rovember	, 1913 ; and that on the 28th
day of Rovember , 19	19	
	Idaho Power Com	pany
of Boise , State of Commissioner of Reclamation Enterthyleger of Idaho, of a right to the use		ade proof to the satisfaction of the
under Use Permit No. , 4168	of the generalising of the generalising of the generalising of the ferrors of the	cating electric power of Reolamation did that said right to the use of said
waters has been perfected in accordance wit Commissioner of Reolemation Exguser of Idaho and entered of record in	h the laws of Idaho, and Volume's 5 of Licenses, a	is hereby confirmed by the Chate 1 page 2529 , on the 5th
day of February 1920		
The right hereby confirmed dates from	m September	3 , 1908 ;
The Point of Diversion is located	•	•
in the SW 1/4 SE 1/4, Sec. 30	Tp. 7 8 R 3	LE. B.M.
That the amount of water to which s	uch right is entitled and h	creby confirmed, for the purposes
aforesaid, is limited to an amount actually m	· ·	
exceed 1400 cubic feet per second.	, 1	and the gray of the same of the
Description and location of use: At	•	man Falle, Idaho.
Twp. Rauge Sec. Forty-acrè T	No. Acres	No. Acres

Twp.	Range	Sec.	Forty-acrè Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
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The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of

we herein described, as provided by the laws of Idaho.

Gometusioner of Heclamation

WITNESS the scal and signature of the Market Engineer, affixed at Roise, Idaho, this 5th February , in 80 day of

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

3. 37**73.6**14.617. 3117.344. 毛数形式医放射

	CIVIL CASE NUMBER:	39356
IN RE THE GENERAL ADJUDICATION	Ident, Number A01-02017	
OF RIGHTS TO THE USE OF WATER FROM	Date Received	
THE SNAKE RIVER BASIN WATER SYSTEM	Receipt Number	1 14
Momenton on o		• • •
NOTICE OF C	CLAIM	mento es la pST
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WATER RIC	LHT. Goden and Angles (Angles)	. 33
ACQUIRED UNDER S	TATTO I ASSI	an, i i
reporter, Amerika popularini krimater e gima o		A () () ()
Please type or print clearly		erasoria egili. Lilianin desi
1. Name of Claimant (s) Idaho Power Company	Phone (208) 3	33-2300"
Mailing Address P.O. Box 70, Boise, Idaho	, the site of each $\sim e_{ m c} Zip$ and 8	3702
2. Date of Priority (Only one (1) per claim) September 3, 1	908 that a most got sales by	Automotive to
Source of water supply (a) Snake River		
which is tributary to (b) Columbia River	The state of the s	the Mean at Mile
which is tributary to (b) Columbia River 4. a. Location of existing point of diversion is: Township 78	Range 31E Section	30
1/4 ofSW _ 1/4 of _SE 1/4 , Govt. Lot,		
Additional points of diversion if any:		Section 2
 b. If instream flow, beginning point of claimed instream flow is: 		
Township Range Section	,1/4 of1/4 o	f1/4,
Cont. Not. 1. CR M. Countries were discussed in the countries of the count		
Govt. Lot / B.M., County of 13 (less constructed by the second constructed by the s		
ending point is; Township Action Range	Section 1/4	or1/4 or
1/4, Govt. Lot B.M., County of	de la servició de la companya de la La companya de la co	
Description of existing diversion works (Dams, Reservoirs, Ditc including the dates of any changes or enlargements in use, the	ches, Wells, Pumps, Pipelines, Headga a dimensions of the diversion works as	tes , Etc),
	American Falls Power Plant	
in the state of th		
Control of the Contro	<u> </u>	
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Planting Strategy Power State of China.

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Tota	al quant al const	ity cla	imed	(a) _	1,4	100		:1 1	· . (ç	fs) an	d/or (b)		· · · · ·	<u> </u>			_: (acı	re feet)
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b.	If water	is us	ed for c	other p	urpos	es, pla	ice a s	symbo	l of us	ie (exa	ımple:	D for	Dome	estic)					
	in the c	orres	onding	gplac	e of us	se belo	ow. Se	e inst	ructio	ns for	stand	ard sy	mbols						
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2. De lf 3. D	136 c	32;0 fs;	permi	t app	lica	nv h	as fi	led,	or w			_							
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2. De lif (3. D) (4. R) (1. R) (1. R)	01-020 136 c emarks: claims the de ment p	32;0 fs; Ida and velo roje	permino Por wate pment ct,the	t app wer (r rig of t e Com	olica Compa chts he f mpany	ny h appl irst als s wa	as fi icati Amer o ent	led, lons lcan ered	for Fal int	the 1 ls Da o vai	lmeri um in cious The (can 192 cont	Falls 7 and tract ty is	the an	er p sub id ag the	lant sequ reem proc	In cent cents	l <u>976</u> that of re	nction dam re may b viewin
2. Do if 3. D (11-020 136 c emarks: claims the de ment p releva	32;0 fs; lda and velo roje nt t	permit ho Por wate pment ct, the the	wer of the Company and	lica Compa this he f apany agre	ny h appl irst als s wa emen	as fi icati Amer o ent ter i ts al	led, lons lcan ered light long	for Fal int cla with	the last Date of variations of the last of	ameri im in ious The C cany	can 192 cont compar and	Falls 7 and tract ty is LDWR	i pow i the ee an s in reco	er possible subsets of the property of the pro	lant sequence reem proce to de	ent cents ents ess cess eterr	conju 1976 that of re nine	nction dam re may b viewin whethe
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Last Name

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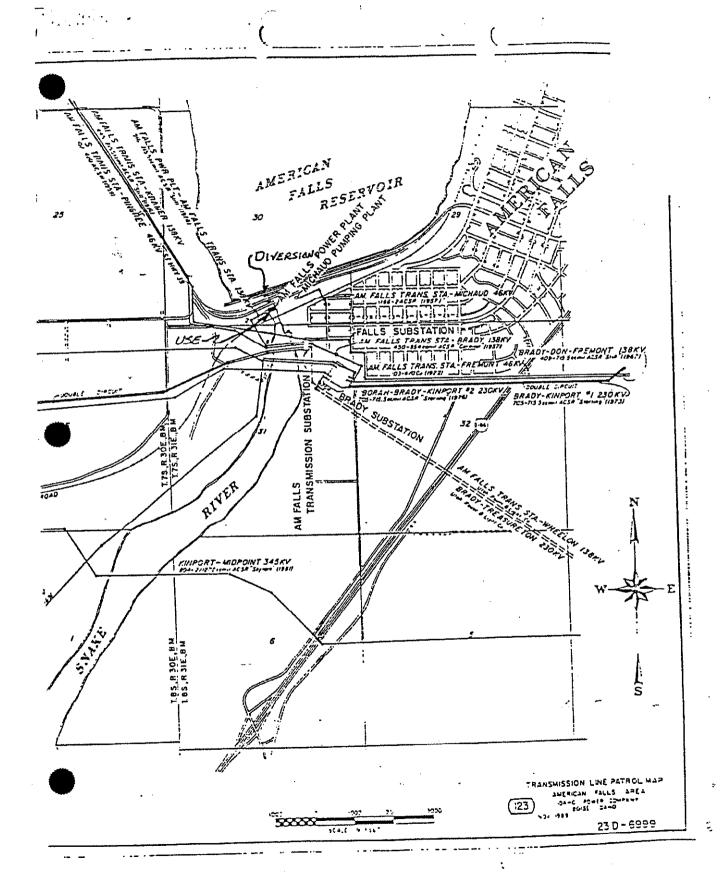
Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

(SEE ATTACHED)

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Last Name Idano rower company Ident No. 01-02017 Copies: wine-state, renow-cit	_ast Name	wer Compan	y Ident No.	01-02017	Copies: White-State, Yellow-Cla
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	Plaintiff vs Defendant				
(a •	ignature (s) a.) By signing below, I/We How you will receive notice vish to receive and pay a s	e In the Snake River E mall annual fee for m	Basin Adjudication." (b.)	I/We do do	orm entitled
for Inc	Number of attachments _ dividuals: I do solemnly s	vear or affirm that the	e statements contained in	n the foregoing docu	ment are true
and co					
· ^-	ganizations: I do solemn				
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f	Idaho Power Compar	ıy Janizatlori		_ , that I have sign	ed the foregoing
ocun	nent in the space below as	Attor	ney o	Idaho Power (ompany
	at the statements containe	1100		Organizat	ion
Çount	Title and Organize of Idaho/or)) SS) ed) before me this _	18th Notary Public Mac Residing at Lood	day of <u>Octor</u>	
	. 5.		My Commission Expires	12-17-9	7
	• **		rint Name		
Notice of the	essP.O. Box 19	ddress listed below.		d by the director to the	attorney at Iaw on behal le claimant signing abov
Last	Name <u>Idaho Power</u> C	ompany Ident. Num	ober01-02017	Copies	White-State, Yellow-Claimant

WATER RIGHT NO. 01-02032

State of Idaho

icense and Certificate of Water Right

Water License No. 14067 Water District No. 36	Amount 4,500 886. 1 Priority 3-8-1919
rids is to civility that	Ida ho Fower Company , made application for a permit to appropriate the
nublic waters of the State of Idelia, dated	March 8 , 19 19; that Permit No. 14067 ertificate of Completion of works, with a carrying capacity of

4 5000 second feet, was issued thereunder on July 21 .19 24, showing that said works

July

was completed on the let day of , 1924 , July day of

Idaho Power Company

, made proof to the satisfaction of the , State of Idaho Dotse of Idaho, of the right to use the waters of Snake River Commissioner of Reclamation , a tributary of Columbia River , for the purpose of power under Use Permit No. 14067 of the Commissioner of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in of Licenses, at page 3175, on the 21st day of July , 19 24; Volume6

The right hereby confirmed dates from March 8 , 1019 ;

, 19 24; and that on the 1st

The Point of Diversion is located

14. Sec. 30 in the SW 14SE

, Tp. 7 S. R. 31 B.

County of Power.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 4,600 onlie feet per nerotel.

Description and bention of use:

Twp.	Rango	Sec.	Forty-pop Jract	No. Acres' Dénarited in Formit	No. Acres Actually Litigated
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				And Address.	

The right to the use of the water accremid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, , 19 E4 . . July glet day of thin

W. C. SWEIDSEIL

WATER RIGHT NO. 01-02046

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DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2 Boiss, Idaho 83707 (208) 384-2215



R. Keith Higginson

Director

Water Rights Administration Water Resource Investigations Dam and Reservoir Safety Water Well Drilling Flood Plain Management

Irrigation and Flood Control Districts

December 9, 1971

Idaho Power Company Box 30 Boise, Idaho 83707

Gentlemen:

A representative of this department has made an examination of the works covered by your Permit No. 16635/01-2046 and has found the following:

Quantity of water diverted: 9,000 cfs
Amount of water that can be recognized as beneficially used under Idaho law: 2,000 cfs
The maximum quantity diverted shall not exceed 1,447,590 acre feet per season.
Beneficial Use: Power generation purposes within the NW 4NE 4, Sec.
31, Twp. 7S, Rge. 31E, B.M. (American Falls Project)
Point of diversion: SW4SE4, Sec. 30, Twp. 7S, Rge. 31E, B.M.
The priority date established is: October 15, 1926

If you do not concur with these findings, please advise us within 10 days; otherwise, a license will be issued as set forth in this letter.

Very truly yours,

BOBBY D. FLEENOR Assistant Director

BDF:DR

WATER RIGHT NO. 01-07128

Form 202 /92

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1.	Name of applicant Idaho Power Company Phone 388-2300
	Post office address P.O. Box 70, Boise, Idaho, 83702
2.	Source of water supply Snake River which is a tributary of Columbia River
3.	Location of point of diversion is ¼ of ¼ of SE ¼, Govt. Lot
	Sec. 30 Township 7S Range 31E B.M. Power County; additional
	points of diversion if any:
4.	Water will be used for the following purposes:
	Amount 7,850 cfs Power purposes from 1/1 to 12/31 (both dates inclusive) (cfs or acre-feet per annum)
_	Amount for purposes from to (both dates inclusive)
	Amount for purposes from to (both dates inclusive)
	Amount for purposes from to (both dates inclusive)
5.	Total quantity to be appropriated is (a) 7,850 and/or (b) acre feet per annum
	Proposed diverting works:
	a. Description of ditches, flumes, pumps, headgates, etc. <u>American Falls Power Plant</u>
	je je na standard po
	b. Height of storage dam feet; active reservoir capacity acre-feet; total
	reservoir capacity acre-feet; period of year when water will be diverted to storage:
	toinclusive.
	c. Proposed well diameter is inches; proposed depth of well is feet.
	d. Is ground water with a temperature of greater than 85°F being sought?
	If well is already drilled, when?; Drilling firm;
•	Well was drilled for (well owner)
7.	Time required for the completion of the works and application of the water to be proposed beneficial use is
ε	existing project years (minimum 1 year).

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3.	Descri	ption	of pro	posed	d use:	s (if ir.	rigati	on on	ly, go	to ita	em 9)):								
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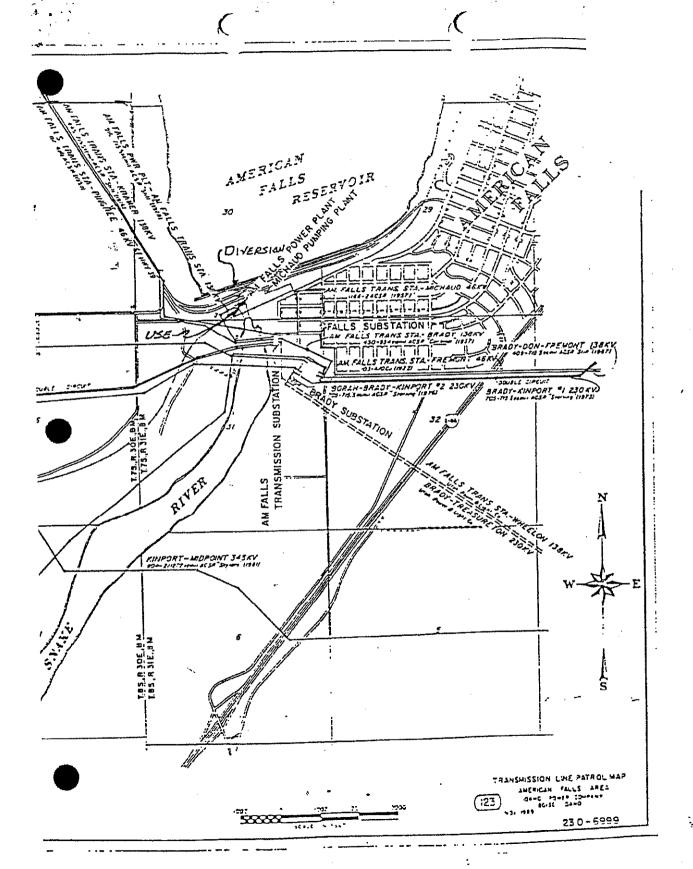
13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, (SEE ATTACHED) township and range number.

Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth. IDAHO POWER COMPANY

By:
James C. Tucker (Applicant)

Aftorney



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Received by	Date	Time	Preliminary check by	
<u>Fee</u> \$	Receipted by	<i>,</i>	, Date	
- ablication prepare	d by	Date	Published in	
Publication approve	d		Date	
-			MENT OF WATER RESO	•
This is to certif	y that i have examined	d Application for Pe	rmit to appropriate the publi	c waters of the State of
Idaho No.	, , ;	and said application	is hereby	-
*			nitations and conditions:	
	ALL PRIOR WATER R			
b. Proof of cons	truction of works and	application of water	er to beneficial use shall be	submitted on or before
		, 19		
water rights f	or the same land shall	i not exceed 0.02 cc	n under this permit, when co ibic feet per second for each	25,5 0. 10112.
rights to the I	use of water, other tha	in nyaropower, with	nower purposes shall be junio nin the State of Idaho that are no any right or claim against ar nof Idaho initiated later in time	ny future rights to the

e. Other:

WATER RIGHT NO. 01-10382

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE N Ident. Number	UMBER: _Aol-10382	3957	76	
Date Received				
Receipt Number	* * * * * * * * * * * * *		` .	

NOTICE OF CLAIM TO A

WATER RIGHT

ACQUIRED UNDER STATE LAW

Please type or print clearly	All the second
Name of Claimant (s)	Phone (208) 383-2670
Malling Address P. O. Box 70 Boise, Idaho	Zip <u>83707</u>
2. Date of Priority (Only one (1) per claim)	
3. Source of water supply (a) Snake River	·
which is tributary to (b) <u>Columbia River</u>	 - total open to the second
4. a. Location of existing point of diversion is: Township 78 Range 3	IE Section 30
1/4 ofSW1/4 ofSE1/4 , Govt. Lot,E B.M., County of	Power
Additional points of diversion if any:	t the state of the
b. If instream flow, beginning point of claimed instream flow is:	
Township Range Section1/4	4 of 1/4 of 1/4,
Govt. Lot B.M., County of	
ending point is: Township Range Section	1/4 of1/4 of
1/4, Govt. Lot B.M., County of	
 Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, including the dates of any changes or enlargements in use, the dimensions of the constructed and as enlarged and the depth of each well.	ilversion works as
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Map of Project: show clearly the point of diversion; place of use, section number, township, and range number.

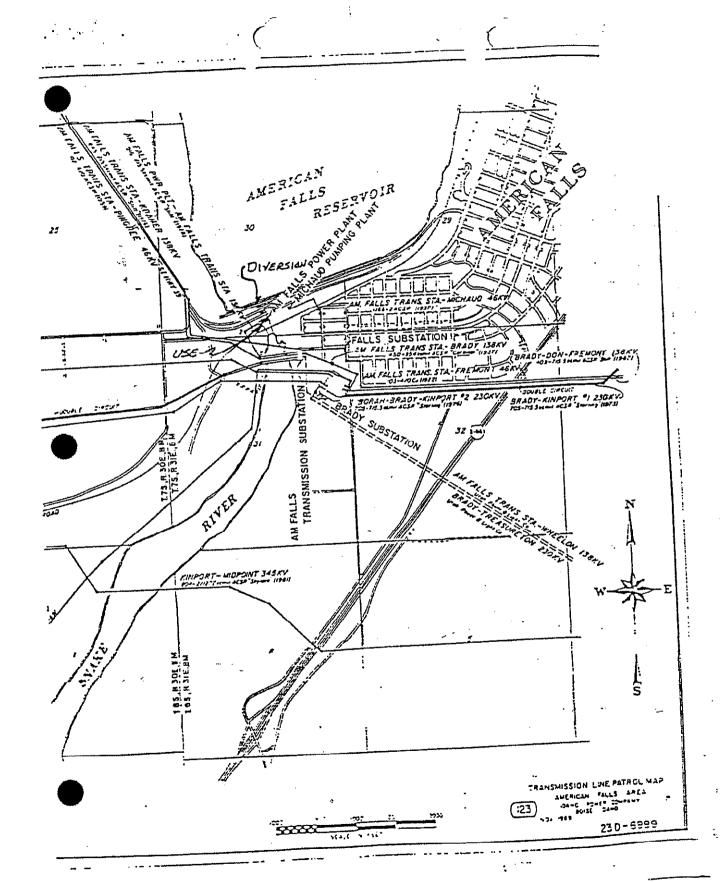
Scale: 2 inches equals 1 mile

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Last Nama Tasha Darram Company Idant No.

Physical Street Control Street Control



15.	Basis of Claim (check one)	Beneficial Use	Posted Notle Book 4, Wate	ce X Ler Rights.	lcense	Permit _	aty (Eyhib
	If applicable provide IDWR	Water Right Numi	ber <u>Certificate</u>	e of Water	Right Tr	ansfer#464	(Exhibit)
)	Court				Decr	ee Date	
	Plaintiff vs Defendant						
	(a.) By signing below, I/We "How you will receive notic wish to receive and pay a s Number of attachments	e in the Snake Riv mall annual fee fo	er Basin Adjudicatio r monthly copies of	n." (b.) I/We the docket sh	edo neet.	do not	
and	correct. Signature of Claimant (s)				Date		
For	Organizations: I do solemn	ily swear or affirm	that I amAt	torney	Titlo		·
of	Idaho Power Compa	ny		į.		sianed the fore	aoina
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doc	Org ument in the space below as	Accorney	îtle	of		lization	
	that the statements containe				Organ	nzation	
Q.I.G				1			
	Signature of Auth	orized Agent	Jan C	(6-		>	
	Title and Organiz	asian Attor	ney, Idaho Powe	er Company		Date /0 -	19-96
	The and Organiz	20011				_ Date	10.14
	e of Idaho/or) SS.					
Cou	inty of <u>Twin Falls</u>						
Sub	scribed and sworn (or affirme	ed) before me this	18th	day o	: <u>llit</u>	Talue	19 <u>96</u>
	SEAL		Notary Public	Theren	x Har	t Strie	Mando
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			Residing at	Dooden	5		
			My Commission I	Expires	12-17-	91	
		Diese	a Print Name		,,,,		
17	Notice of Appearance:	ries	a Fill Haile				
Not of ti	ice is hereby given that i, he claimant signing above, ar old be mailed to me at the ad	James C. Tu nd that all notices Idress listed below	required by law to be	wi mailed by the	ll be acting a ne director to	as attorney at the claimant s	law on behalf signing above
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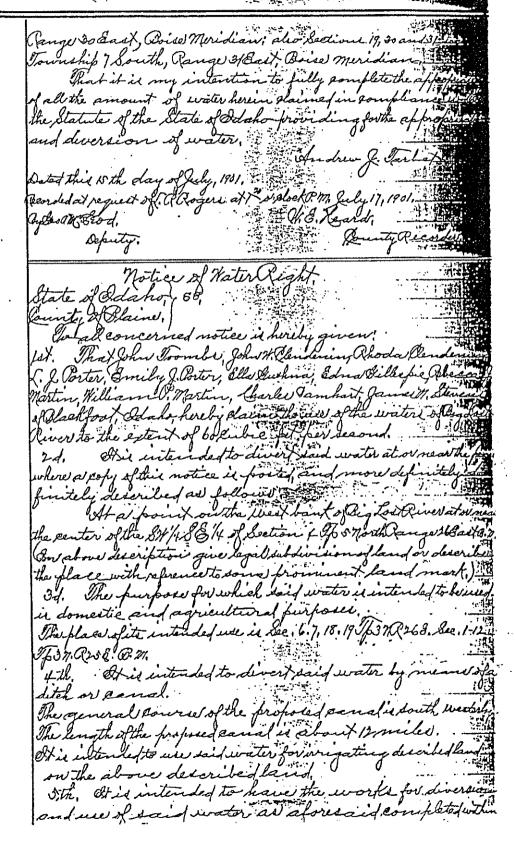
Copies White-State, Yellow-Claimant

Last Name Idaho Power Company Ident. Number

deposed and day that he is of lawfil - go and the appropriates and claiment of the Water Right described in the within and tice and who is name is subscribethout. olice, of which the foregoin footed in a conspicuous place at or ne sound of intended diversion at 7:15 siclock PM. the first by often yet A. bed and sworn to before me this 10 day of agust 1901. a.L. Richardson, black of the USBick Court, Diction of State. beeribed and sworn to to edyat Frebotom, august 12, 1901. Recorded at request of By Sea W. Brod. County Recorder. Deputy, Smale River when I Tarket, of Salt Lake Cit State of Man, do play flowing six thou Suite River there and (6,000) Riil of which disting to diver Sw Meridia Township 7 South, Range 31 East, Q The purposes for which I claim the water are; machinery for generating electric The place where I rutered to view the water is, Blaine Jounty, Daho. duit by which & propose to divert said water is as follows; The general pourse, length, destination and for mechanical furficied by atturned for feet, more or less in length, running partly through Section 30 and 31. J. 7 S. C. 31 8. B. M., and by their pipes 185 feet, more or less in length, for furning furfaces in the above named better Township and Range. Tov irrigation, by meanl of open canal 15 feet wide by 3 feet deep, punning mortherly and Southerly about 15 miles in length to irrigate all the lands in Section 1314 23, 24, 26, 35 and 36, in Township & South, Range 30 best, Coise Neridian; also Sections 1, 2, 9, 10, 11 and 16 in Townships South,

On above description give land, which water is intended to be the place with reference to some from water is intended to be in domestic and agricultural purposes. I 18.19 The 19268. See The place of it intended with it see. 6.7, 18.19 The 19268. See The place of it intended with it see. 6.7, 18.19 The 19268. See The place of its intended to devert said water by mendich or panal.

The length of the proposed same is about 12 miles. Of is intended to we said water for wrighting described to with a show described land.



- (-B-Am.F.-W.P

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transfer Right No. 464

This is to certify that Idaho Power Company, a corporation of the State of Mains, qualified to do business in the State of Idaho, claims a right to the use of 253 c.f.s. of the waters of Snake River for power purposes, initiated and perfected under and by wirtue of that certain water location notice by Andrew J. Tarbet, dated July 15th, 1901, and recorded in Book 4 of Water Rights at Page 266 in the records of Blaine County, Idaho, now situated in Water District #36 of the County of Power, State of Idaho, to-mit, at the hydro-electric generating station on the west side of Snake River at American Falls, Power County, State aforesaid, sometimes known as "Wast Side Plant"; that Idaho Power Company has become the owner of the said water right by mesne conveyances and was until recently the owner of said West Side Plant; that the waters covered by said water right were diverted from said stream in the South Half of the South Half (Sasa) of Section 30, Township 7 South, of Range 31 E., B.M., and conducted to the said West Side Plant and there used; that the said Company discontinued the use of said waters of the said water right as used at the said West Side Plant in June, 1927, and established a new place of use for such water on the east side of Snake River at American Falls, County and State aforesaid, at that is commonly known as the American Falls East Side Power Plant of Idaho Power Company; that the new point of diversion of said waters is North 69 degrees 30 minutos Wost 1872.3 feet from the Southeast Corner of Section 30, in Township 7 South, of Range 31 K., B.M., and such waters are conducted to said new place of use through the forebay of the American Falls East Side Power Plant of Idaho Power Company.

That upon the application of said Idaho Power Company for a transfer of water right made before the Commissioner of Reclamation of the State of Idaho, and said application having been granted, the right to the use of the said 253 c.f.s. of waters so initiated and perfected by and under said water location notice at the said new place of diversion and said new place of use be, and the same hereby is, acknowledged; that the right to the use of the waters aforesaid hereby acknowledged is restricted to said American Falls East Side Power Plant of Idaho Power Company, as provided by the laws of the State of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation of Idaho at Boise, Idaho, this 17th day of June, 1929.

Commissioner of Reclamation

STATE OF IDAHO, DEPARTMENT OF REGLAMATION

In the Matter of the Application of Idaho Power Company for Transfer of Water Right, Water District No. 36.

ORDER GRANTING TRANSFER

WHEREAS, on the 10th day of June, 1929, at the Department of Reclamation of Idaho, at Boise, Idaho, the matter of the application of Idaho Power Company for a transfer of water right came on regularly for hearing, pursuant to the published notice; and

WHEREAS, no one appeared at the hearing to protest the application, and the evidence submitted by the Applicant in support of its said application shows that no one shall be injured by said transfer; and

WHEREAS, the Watermaster of the district in which the old and new points of diversion and of use are located has approved said application;

IT IS, THEREFORE, HERRET ORDERED that the said application for transfer of 255 c.f.s. of the waters of Snake River be granted and certificate issue to the Applicant herein; and

IT IS, THEREFORE, HEREBY FURTHER ORDERED that due notice of the hearing of said application has hereby been given.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of my office at Boise, Idaho, this 17th day of June, 1989.

Commissioner of Recismation

WATER RIGHT NO. 01-10383

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE N	UMBER:		3957	76
ldent, Number	- A01-1	<u>0383</u>		
Date Received				
Receipt Number				

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

Please type or print clearly	•		
1. Name of Claimant (s)	Idaho Power Company	Pho	ne (208) 383-2670
Mailing Address	P.O. Box 70 Boise,	Idaho	Zip 83707
2. Date of Priority (Only one	(1) per claim) August 1, 190)1	
 Source of water supply (a which is tributary to (b) 	a) Snake River Columbia River		
4. a. Location of existing pol	nt of diversion is: Township 75	Range 31E	Section 30
1/4 of <u>SW</u> 1	/4 of <u>SE</u> 917/4 , Govt. Lot,	B.M., County of Por	wer
Additional points of diver	sion if any:		·
Township R	ange Section		
Govt. Lot B.M., C	County of		· .
	Range B.M., County of	1.0	:
1/4, GOVE LOC_	D.M., Oodiny or		
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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

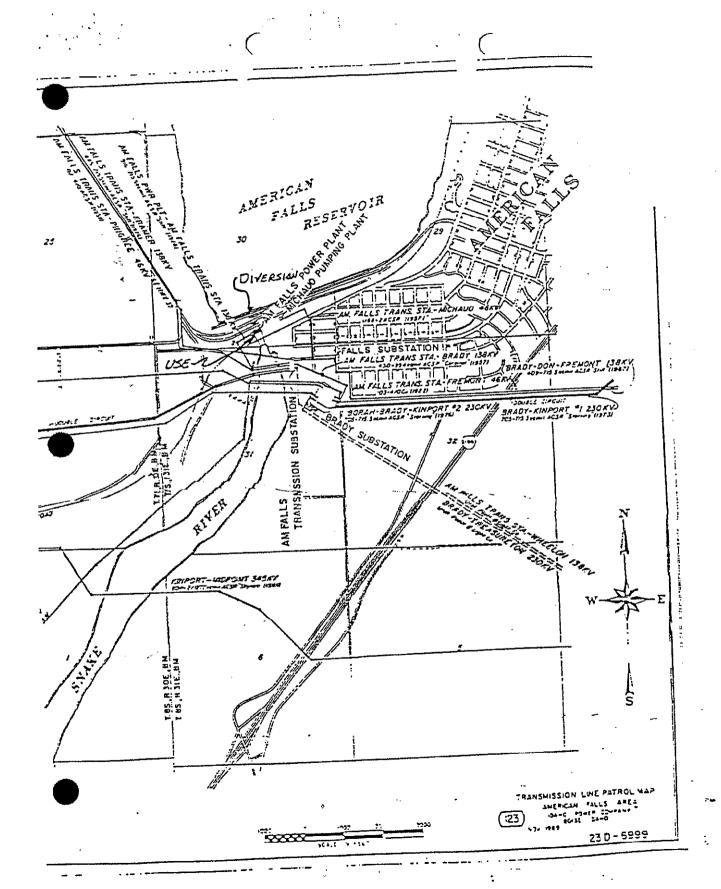
Scale: 2 inches equals 1 mile

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Idaho Power Company Ident No.

Conlet White State Vollage Chairman



If applicable provide iDWR Water Right Number	15.	Basis of Claim (check one) Benefi Decree	icial Use e	Posted Notice	X Lice 265, Blay	ense Per ine County (E	mit
Plaintiff vs Defendant 16. Signature (s) (a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do		If applicable provide IDWR Water Ri	ight Number	Certificate	e of Water	Right Transf	er No.463(Exhibit
(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do		Plaintiff vs Defendant					
Signature of Claimant (s) Date Date Date For Organizations: I do solemnly swear or affirm that I am Attorney of Idaho Power Company Organization document in the space below as Attorney and that the statements contained in the foregoing document are true and correct. Signature of Authorized Agent Title and Organization Attorney, Idaho Power Company Date /0-/8-96 State of Idaho/or Title and Organization Attorney, Idaho Power Company Date /0-/8-96 State of Idaho/or File and Organization Attorney, Idaho Power Company Date /0-/8-96 State of Idaho/or Twin Falls SS. Subscribed and sworn (or affirmed) before me this /8th day of Uttobur 19 SEAL. Notary Public Agrony Start Statistand Residing at Sporting My Commission Expires //2-/1-97 Please Print Name 17. Notice of Appearance: Notice is hereby given that I, James C. Tucker will be acting as attomey at law on be of the claimant signing above, and that all notices required by law to be malled by the director to the claimant signing ab should be mailed to me at the address listed below. Signature	For I	(a.) By signing below, I/We acknow "How you will receive notice in the S wish to receive and pay a small ann Number of attachments	Snake River Ba nual fee for mor	sin Adjudication. hthly copies of th	" (b.) 1/We d e docket shee	o do not t.	<u> </u>
For Organizations: I do solemnly swear or affirm that I am Attorney of Idaho Power Company Organization document in the space below as Attorney and that the statements contained in the foregoing document are true and correct. Signature of Authorized Agent Title and Organization Attorney, Idaho Power Company Date 10-18-90 State of Idaho/or Title and Organization State of Idaho/or State of Idaho/or State of Idaho/or Power Company Date 10-18-90 State of Idaho/or State of Idaho/or State of Idaho/or Power Company Date 10-18-90 State of Idaho/or State of Idaho/or State of Idaho/or State of Idaho/or Power Company Date 10-18-90 State of Idaho/or State of Idaho Power Company Date 10-18-90 Organization	W. 100					Date	
Idaho Power Company Organization document in the space below as Attorney and that the statements contained in the foregoing document are true and correct. Signature of Authorized Agent Title and Organization Attorney, Idaho Power Company Date 10-18-90 State of Idaho/or Title and Organization Attorney, Idaho Power Company Date 10-18-90 State of Idaho/or Notary Public Hazone York Residing at Hooding My Commission Expires 12-17-97 Please Print Name 17. Notice of Appearance: Notice is hereby given that I, James C. Tucker will be acting as attorney at law on being the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above. Signature		,				Date	
State of Idaho/or	For 6	Organizations: I do solemnly swear	r or affirm that I	am At	tornev		
Coganization document in the space below as Attorney of Idaho Power Company Title Organization and that the statements contained in the foregoing document are true and correct. Signature of Authorized Agent Title and Organization Attorney, Idaho Power Company Date 10-18-96 State of Idaho/or State of Idaho/or Notice and sworm (or affirmed) before me this 18th day of 19 SEAL Notary Public Advant State State Italian Agent State Italian Sealing at Sooding My Commission Expires 12-17-97 Please Print Name 17. Notice of Appearance: Notice is hereby given that I, James C. Tucker will be acting as attorney at law on be of the claimant signing above, and that all notices required by law to be malled by the director to the claimant signing above. Signature							
document in the space below as Attorney of Idaho Power Company and that the statements contained in the foregoing document are true and correct. Signature of Authorized Agent Title and Organization Attorney, Idaho Power Company Date 10-18-96 State of Idaho/or) SS. County of Twin Falls Subscribed and sworn (or affirmed) before me this 19 SEAL Notary Public Agront Start Statistary Residing at Sooking My Commission Expires 12-17-97 Please Print Name 17. Notice of Appearance: Notice is hereby given that I, James C. Tucker will be acting as attorney at law on be of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing ab should be mailed to me at the address listed below. Signature	of _	Idaho Power Compa	iny		, tha	it I have signed th	e foregoing
State of Idaho/or	doei				of Idaha	Power Compa	w
Signature of Authorized Agent Title and Organization Attorney, Idaho Power Company Date 10-18-9(State of Idaho/or	UOLL	different in the space nerowas	Title			Organization	<u>Q</u>
State of Idaho/or	and	that the statements contained in the	foregoing docu	iment are true ar	d correct.		•
State of Idaho/or		Signature of Authorized A	lgent	and C	? (u	2	
State of Idaho/or		701 40	Attornay 1	Idaha Barray I	Commone	D-1-	10-18-91
SEAL Notary Public Agrony Nota		}	SS.				
My Commission Expires My Commission Expires 17. Notice of Appearance: Notice is hereby given that I, James C. Tucker of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing ab should be mailed to me at the address listed below. Signature The 23202 1006			re me this	18th	day of _	Actobe	<u> </u>
My Commission Expires 12-17-97 Please Print Name 17. Notice of Appearance: Notice is hereby given that I, James C. Tucker will be acting as attorney at law on be of the claimant signing above, and that all notices required by law to be malled by the director to the claimant signing ab should be mailed to me at the address listed below. Signature		SEAL			Haron	Vart Sta	ikland
Please Print Name 17. Notice of Appearance: Notice is hereby given that I, James C. Tucker will be acting as attorney at law on be of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing ab should be mailed to me at the address listed below. Signature		Ö Tarana sa	Re	esiding at	soding.		- 1
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D O D 1006 Thui- E-11- TD 92202 1006	of th	the claimant signing above, and that a	li notices requi		malled by the	e acting as attori director to the cla	ney at jaw on behalf imant signing above
Address P. O. Box 1906, Twin Falls, ID 83303-1906	Sig	inature	- (ve	<u> </u>		·	
ite 10-18-96	Add	dress P. O. Box 1906, Twin	Falls, ID 8	33303-1906	· ——		
		te <u>10-18-98</u>	_				

Copies White-State, Yellow-Claimant

Last Name ____Idaho Power CompanyIdent. Number _____

a true and court copy, in a configurous place areas the go of intended diversion described in said notice to writ: At West and of O.S. L. R.R. Bridge about 4 rocks to the sight cy track on fence port at bank of rivel. 6.13. Randall. Lubscribed and sworm to before one this 19 day of branch 19. W. A. Johnston

Recorded at Request of Geo Ingusoll for march 80. 1901 at 32 och W. E. Heard bounty Recorder.

By les a Marcod Deputy.

Snake River. Notice of Water Right Location. notice is hereby given that I. Grady, of the City of County of Durance, State of the thile First, day of august 1901, appropriated and hereby clair articularly described as follows, towit: It the head of the island of the Q. Dy Bridge, at amorico That the special furfaces of furface for which said is unad, is Origation, Mining, Cower, and American The place of intended wie in the Sity of Pocatelle wow of American Falle, and such other places in the m all may require the new of water for the above manuals That the general points of the proposed samulove is on each side of the Snake River for such distance as m be required. Dure of said water assaforeraid, en we years. agony of this notice was duly frosted at orn the point of intended diversion, on the Frist day of august, 1901. Kitness my hand at Pocatello, Country of Alaho, this 11th day of august, 1901. tate of Edaho, 55, 55

depose and day that he is of lawfill ago and the appropriator of plainent of the Natur Right described in the within a of who we mained is subscribed thousands original notice, of which the foregoing is at true was fasted in a conspicuous place at or m boint of intended diversion at 7:15 siclock P.M. the first day of anywith & X Brads Souls en be of and sworn to before me this 10 day of agust 1901. By Theo Turner, Deputy. Recorded at request of HTPrady at Frelock 0m, august 12, 1901. By Ses at The Lood, County Recorder. Deputy. Snale River notice of appropriation of water. I Salt take Rity State of tan, do als flowing, six thous That the point ud (6,000) Riebie feet for second of time. it at which divitered to divert said water is american Falls, Blaine Portlato Idale Jun fox 12 Section 30, Township & South, Range 31 East, Doise Meridian. The purposes for which I claim the water are; copelling furniting electric wanting for goi orating electric or and light, for propelling from fing machinery, and For peopelling for The place where I intend to view the water is Blacke Jounty, Idaho. The general course length, destination and by which & propose to direct said water is al follows; For mechanical purposes by a turnel 420 feet, more or best in length, running partly through Section 30 and 31. J. J. R. J. B. D. M., and by their phic 185 feet, more or less in length, for fumping purposes in the above named bestions For irrigation, by means of open canaly 15 feet wide by 3 feet deep, running northerly and Southerly about 15 miles in length to irrigate all the lands in Section 1314 23, 24, 26, 35, and 36, in Township 7 South, Panger Bast, Coise Nordian; also Sections 1, 2, 9, 10, 11 and 16 in Townships South,



STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transfer Right No. 463

This is to certify that Idaho Power Company, a corporation of the State of Maine, qualified to do business in the State of Idaho, claims a right to the use of 611 clf.s. of the waters of Snake River for power purposes, initiated and perfected under and by virtue of that certain water location notice by J. H. Brady, dated August 1, 1901, and recorded in Book 4 of Water Rights at Page 265 in the records of Blaine County, Idaho, now situated in Mater District #36 of the County of Power, State of Idaho, to-wit, at the hydro-electric generating station on the island in Snake River at American Falls, Power County, State aforesaid, sometimes known as "Island Plant"; that Idaho Power Company has become the owner of the said water right by meane conveyances and was until recently the owner of said Island Plant; that the waters covered by said water right were diverted from said stream in the South Helf of the South Helf (SiSi) of Section 30, Township 7 South, of Range 31 K., B.M., and conducted to the said Island Plant and there used: that the said Company discontinued the use of the said waters of the said water right as used at the said Island Plant in June, 1927, and established a new place of use for such water on the east side of Snake River at American Falls, County and State aforesaid, at what is commonly known as the American Falls East Side Power; Plant of Idaho Power Company; that the new point of diversion of said waters is North 69 degrees 30 minutes West 1872.3 feet from the Southeast Corner of Section 30, in Township 7 South, of Range 31 E., B.M., and such waters are conducted to said new place of use through the forebay of the American Falls East Side Power Plant or Idaho Power Company.

That upon the application of said Idaho Power Company for a transfer of water right made before the Commissioner of Reclamation of the State of Idaho, and said application having been granted, the right to the use of the said fell c.f.s. of waters so initiated and perfected by and under said water location notice at the said new place of diversion and said new place of use be, and the same hereby is, acknowledged; that the right to the use of the waters aforesaid hereby acknowledged is restricted to said American Fells East Side Power Plant of Idaho Power Company, as provided by the laws of the State of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation of Idaho at Boise, Idaho, this 17th day of June, 1929.

Jes M. Carter

STATE OF IDARO, DEPARTMENT OF RECLAMATION

In the Matter of the Application of Idaho Power Company for Transfer of Water Right, Water District No. 36.

ORDER GRANTING TRANSFER

WHEREAS, on the 27th day of May, 1929, at the Department of Reclamation of Idaho, at Boise, Idaho, the matter of the application of Idaho Power Company for a transfer of water right came on regularly for hearing, pursuant to the published notice; and

WHEREAS, no one appeared at the hearing to protest the application, and the evidence submitted by the Applicant in support of its said application shows that no one shall be injured by said transfer; and

THEREAS, the Watermaster of the district in which the old and new points of diversion and of use are located has approved said application:

IT IS, THEREFORE, HEREET ORDERED that the said application for transfer of 611 c.f.s. of the waters of Snake River be granted and cortificate issue to the Applicant herein; and

IT IS, THEREFORE, HEREBY FURTHER ORDERED that due notice of the hearing of said application has hereby been given.

IN WITNESS WHEREOF, I have hereunto set my hand and effixed the official seal of my office at Boise, Idaho, this 17th day of June, 1920.

Commissioner of Recismation

WATER RIGHT NO. 01-10384

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION OF RIGHTS TO THE USE OF WATER FROM THE SNAKE RIVER BASIN WATER SYSTEM

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Date Received	-	<u> </u>	
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NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

1. Name of Claimant (s)	Idaho Power Compa	iny	Pho	one (208) <u>383-2</u>	670
Mailing Address P.	0. Box 70	Boise	. Idaho	Zip <u>83707</u>	
2. Date of Priority (Only o	ne (1) per claim) <u>Janua</u> :	y 1, 1929		,	
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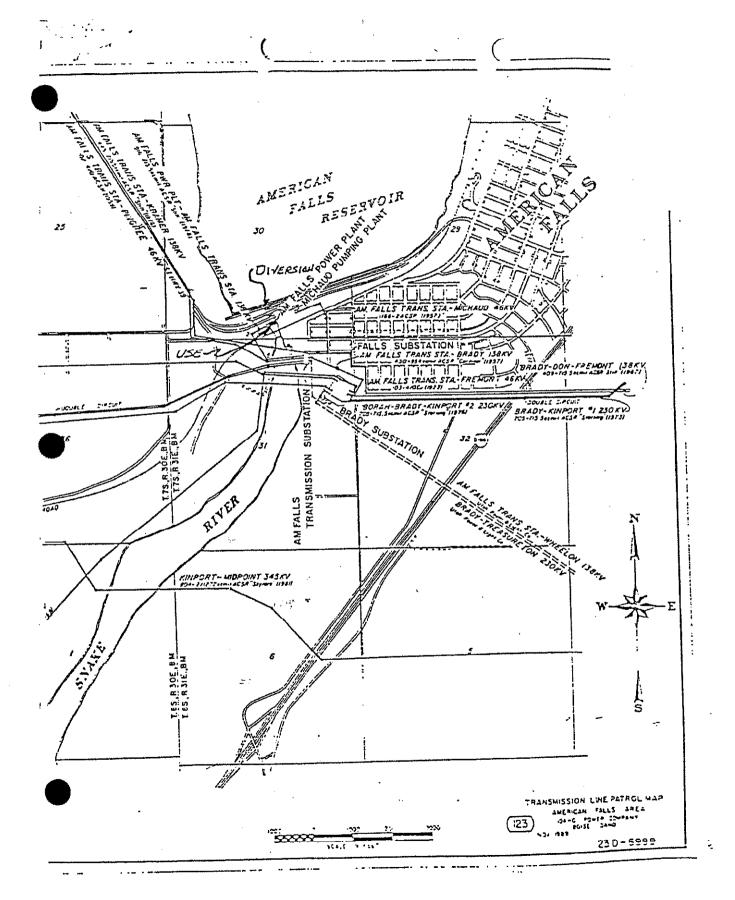
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Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

(SEE ATTACHED)

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15.	Basis of Claim (check one)		Posted	Notice	_ License	Permit	
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16.	Signature (s)						
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EXHIBIT C

ROSHOLT, ROBERTSON & TUCKER

Chartered ...

Twin Falls Office 142 3rd Ave. North P.O. BOX 1906 TWIN FALLS, IDAHO 83303-1906 TELEPHONE (208) 734-0700 FAX (208) 736-0041 Boise Office 1221 WEST IDAHO, SUITE 600 P.O. BOX 2139 BOISE, IDAHO 81/01-2139 TELEPHONE (228) 336-0700 FAX (208) 344-6234

October 23, 1996

Idaho Department of Water Resources 1301 North Orchard Statehouse Mail Boise, ID 83720

HAND DELIVERED TO SOUTHERN REGION
DEPARTMENT OF WATER RESOURCES
TWIN FALLS, IDAHO

ATTN:

JOHN A. ROSHOLT

JAMES C. TUCKER

GARY D. SLETTE

JERRY V. JENSEN

BRUCE M. SMITH

JOHN K. SIMPSON

PATRICK D. MADIGAN

NORMAN M. SEMANKO

TIMOTHY I. STOVER

J. EVAN ROBERTSON

Karl Dreher, Director

Dave Tuthill, Adjudication Bureau Chief

Gentlemen:

Please find enclosed the following water right application and adjudication claims which we have presented for filing on this date on behalf of the Idaho Power Company:

- 1) Application for Permit 7,850 cfs for power purposes @ American Falls;
- 2) Notice of Claim 1,400 cfs for power purposes @ American Falls;
- 3) Notice of Claim 6,000 cfs for power purposes @ American Falls;
- 4) Notice of Claim 2,000 cfs for power purposes @ American Falls;
- 5) Notice of Claim 136 cfs for power purposes @ American Falls; and
- 6) Notice of Claim 3,500 cfs for power purposes @ Bliss power plant.

These filings are being made to supplement previous filings by the Company based upon the results of hydraulic capacity tests completed by the Company at various power facilities. These capacity tests were initiated in an effort to verify the previous SRBA claims filed by the Company. Tests at all of the Company's facilities have not been completed and further amended or supplementary filings may be forthcoming.

Idaho Deparment of Water Resource Asso: Karl Dreher & Dave Tuthill October 23, 1996 Page 2

The filings at American Falls are further complicated, and in many respects necessitated, by the history of the development of the American Falls Reservoir and the adjudication filings for that facility made by the United States. Our review of pertinent records indicates that prior to the construction of the first American Falls Dam in 1927, the Company owned and operated three small power plants at American Falls, the West Side, Island, and East Side Plants. The diversion structure at the East Side Plant was capable of diverting 6,000 cfs in 1920. Permit No. 4168 was licensed in 1920 for 1,400 cfs, and Permit No. 14067 in 1924 for 4,600 cfs to make up the difference. In 1921, the Company filed an application to appropriate an additional 1,200 cfs for power purposes (Permit No. 15201/01-2041), along with an application for a permit to store 300,000 AF of water at the American Falls site. (Permit No. R-273/01-2065.) In each case, permits were subsequently issued to the Company.

About that same time, the Bureau of Reclamation became interested in the American Falls area as a reservoir site for the Minidoka Project. On June 15, 1923, the United States and the Company entered into a contract by which the United States acquired a portion of the Company's land and the water rights for the development of the American Falls site (The actual deed is dated April 13, 1926). This included the West Side and Island power plants. The Company retained the East Side Plant. The 1923 contract provided, among other things, that the Company was to acquire 45,000 AF of primary storage and 255,000 AF of "secondary storage" along with the right to use the water discharged from the dam for power production in the East Side Plant. The East Side power plant was not connected to the dam, so it made no use of the extra head created by the impoundment.

With the construction of the American Falls Dam in 1927, the capacity at the East Side Plant was increased to 9,000 cfs, and the corresponding the water rights consisted of the following:

1.	253 cfs	With a priority date of July 15, 1901, transferred from
		the West Side Plant to the East Side Plant on June 17,
		1929, by transfer No. 464;

- 2. 611 cfs With a priority date of August 1, 1901, transferred from the Island Plant to the East Side Plant on May 4, 1929, by transfer No. 463;
- 3. 1,400 cfs Permit No. 4168, with a priority date of September 3, 1908, licensed in 1920 to American Falls Power Company, No. 01-02017;

Idaho Department of Water Resource Ann: Karl Dreher & Dave Tuthill October 23, 1996 Pare 3

4.	4,600 cfs	Permit No. 14067, with a priority dated of March 8, 1919, licensed in 1924, No. 01-02032;
5.	2,000 cfs	Permit No. 16635, with a priority dated of October 15, 1926, licensed in 1971, No. 01-02046;
	8,864 cfs	TOTAL

The Company has previously filed adjudication claims on two of the licensed rights, Nos. 4 and 5 above (Water Right Nos. 01-02032 and 01-02046). Adjudication claims for Nos. 1 and 2 (the 1901 rights), No. 3 (No. 01-02017) along with a beneficial use claim for the 136 cfs necessary to bring the total water rights at the facility to 9,000 cfs are part of the current filing.¹

Permit Nos. 01-2041 and 01-2065, the permits issued to the Company for the 1200 cfs flow right and 300,000 AF storage right, respectively, were never licensed. In 1971, the Department of Water Administration (DWA) gave to the Company notice of its intention to cancel each of those permits for non-development. The Company opposed the cancellation based on provisions in the 1923 Contract, contending that the Company reserved its water rights at the American Falls site. The 1923 Contract, immediately following the provision transferring the Company's water rights to the U.S., provided:

But it is expressly agreed and understood that the water rights and rights to the use of water which it is herein agreed that the Company shall have are reserved out of its existing appropriations and rights as independent rights under its own filings and appropriations and of the dates of priority to which the Company is entitled under such appropriations and are not to be considered as mere contract rights under contract with the United States. (1923 Contract, para 9(d), at p. 11)

Despite that language, the DWA decided that both permits should be canceled. In his written decision, the then director, R. Keith Higginson, stated:

After reviewing the files of the Department and the answer of the Idaho Power Company, the Director finds that the rights established by the Idaho Power Company, by reason of Permit Nos. 01-2041 and 01-2065, have been merged with rights granted the United States of America and that by

You will note that the filings for the rights listed as Nos. 1 & 2 claim are for 6,000 cfs and 2,000 cfs, respectively. Although the Company only transferred the amounts listed above (253 and 611 cfs) to the East Side Plant, the balance of each right is included in the respective claim based on Judge Hurlbutt's recent decision in Basin-Wide # 10.

Idaho Department of Water Resources Atm: Karl Dreher & Dave Tuthill October 23, 1996 Page 4

reason of contracts and agreements entered into between the Company and the United States of America, Bureau of Reclamation, those rights are held in trust for use by the Company under the water rights of the United States at American Falls Reservoir.

The Director further finds that since the Company's rights to water at American Falls Dam and Reservoir are already covered by reason of licenses issued to the United States of America, under Permit Nos. R-269 and 4168² and contracts between the Company and the United States of America, that Permit Nos. 01-2041 and 01-2065 are duplicate and should be canceled. The Company has failed to submit proof that it has constructed the necessary works to divert the water and apply it to beneficial use. (emphasis added)

In 1972, storage behind the American Falls Dam was restricted for safety reasons. This led to a non-governmental replacement program whereby the Company guaranteed bonds issued by the American Falls Reservoir District (AFRD) for reconstruction of the Dam in exchange for the right to connect its power plant directly to the Dam and use the water released from the Dam to generate power. On March 31, 1976 a contract (the "Government Contract") was entered into between AFRD and the United States. In that contract the United States acknowledged the existence of a "falling water contract" between AFRD and the Company and agreed that the Company could use the water released from the Dam, subject to the other provisions of the contract, for power generation purposes. (Government Contract, Art 18, p. 6) The Government Contract, and the use of the falling water, was authorized by the American Falls Enabling Act of December 28, 1973 (P.L. 93-206, 87 Stat. 904). Pursuant to the Government Contract and the Act, the AFRD, as the constructing agency, and the Company entered into a Falling Water Contract which authorized the Company to utilize the water discharged from the Dam in accordance with the Government Contract. (Falling Water Contract, Sec. 3.1, p. 13.) Also on March 31, 1976, the United States, AFRD and the Company entered into a Spaceholder Contract which provided:

Nothing herein shall in any way alter or change the present proportion of the storage rights of the spaceholder, and this Spaceholder Contract and the American Falls Replacement Dam Program constitute a reaffirmation by the United States of the rights of the spaceholder under the Existing Spaceholder Contract, except as modified by this Spaceholder Contract as authorized in the Act of December 28, 1973, and the Government Contract. The provisions of

². Permit No. 4168 for 1400 cfs was licensed to American Falls Power Company in 1920 and is one of the SRBA claims being contemporaneously filed by the Company. R-269 is current license #01-02064, held by the U.S., for 1.8 MAF of storage for irrigation and power purposes. The U.S. has filed an adjudication claim for this water right but did not include power as a purpose of use. See SRBA clm. # A01-02064.

Idaho Department of Water Resource Astri: Karl Dreher & Dave Trahili October 23, 1996 Page 1

the Existing Spaceholder Contract shall in all respects remain in full force and effect except that the provisions of this Spaceholder Contract with respect to the Replacement Dam, including but not limited to the operation and maintenance thereof and the distribution of water therefrom, shall prevail over the provisions of the Existing Spaceholder Contract wherever and to whatever extent the provisions of the Existing Spaceholder Contract are in conflict with the provisions of this Spaceholder Contract. (Spaceholder Contract, sec., 19, p. 6) [the 1923 Contract is identified as the "Existing Spaceholder Contract" in Part 1, sec. 18]

The spaceholder acknowledges that the water storage rights evidenced by permits, licenses and court decrees for the Existing Dam are held in the name of the United States and by this Spaceholder Contract the water rights are reaffirmed and neither the United States, the Constructing Agency, nor the spaceholders are required to make additional filings for the Replacement Dam. (Spaceholder Contract, sec. 49, p. 23)

Despite the decision by the DWA in 1971 that the "Company's rights to water at American Falls Dam and Reservoir are already covered by reason of licenses issued to the United States of America . . . ", questions remain as to whether additional SRBA filings by the Company are necessary to protect the Company's power rights at American Falls. Notwithstanding the 1971 decision, the contracts entered into in conjunction with the 1976 Dam Replacement Project reaffirmed the 1923 Contract and granted the Company the right to use water released from the Replacement Dam for purposes of power generation. While our review indicates that the United States holds various water rights at American Falls, only two have stated uses which include power generation. These are Water Rights Nos. 01-02064 (previously Permit No. R-269) and Water Right No. 01-04052, for a 1.8 MAF and 115,000 AF, respectively. Interestingly, the adjudication claim filed by the United States on the oldest power right, A01-02064, does not include power as a stated use. The later priority right, No. A01-04052, for 115,000 AF, does include power and contains the following under the remarks section: "Water furnished to private company for power generation." The amount of storage claimed under this right is significantly less than the 300,000 AF (45,000 primary and 255,000 secondary) of storage rights held by the Company under contract. Additionally, the U.S. has not claimed any flow rights for power purposes.

All of this further confuses and complicates the filings concerning American Falls. We are hopeful that with filing of the referenced claims that these issues can be addressed and resolved in the appropriate forum.

Finally, we are also enclosing the necessary fees for the referenced filings. The Company has previously paid the variable water use fees pursuant to I.C. § 42-1414(1)(b)(ii) and, as such, the enclosed fees for the adjudication claims are remitted under subsection

Idaho Department of Water Resources Aun: Karl Dreher & Dave Tunkill October 23, 1996 Page 6

(1)(a) of that section. The filing fees for the water right application for American Falls are being conditionally paid. If it is determined that the water that is the subject of that application is not required, either based on the enclosed adjudication claims or the contract rights held by the Company, we would expect a remittance of the enclosed fees. In that regard, perhaps it would be appropriate to delay the processing of that application until the issues raised by the adjudication claims filed by both the Company and the U.S. at American Falls are resolved.

We will happy to discuss issues relating to any of the enclosed filings with you at your convenience.

Very truly yours,

JAMES C. TUCKER

Encls.

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EXHIBIT D

RECEIVED OCT 1 1 2001

April 22, 1971

Te: Pornalt Nos. 01-20d; and 64-2005

Mr. James E. Brace Vice-Providest and Secretary Links, Tower Company Tools 7. Barre, e'mar 28797

Verlored you will find a commundant Decision cancelling the two above referenced permits. Pour My, ameri

Eyon have any questions, phono feet from to contact our affine.

very truly yours,

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BEFORE THE DIRECTOR

OF THE

DAHO DEPARTMENT OF WATER ADMINISTRATION

In the Matter of Permit Nos.
01-2041 and 01-2065 in the

MEMORANDUM DECISION

On March 17, 1921, Idaho Power Company submitted Applications to the Idaho Department of Reclamation (removed Idaho Department of Water Administration) requesting authority to divert 1200 cubic feet per second of water and to store 300,000 acro-feet of water to be used for power purposes. The water was to be diverted and stored in the S¹₂S¹₂ Section 30, Township 7 South, Range 51 East, B.M., in Power County for use at the proposed reservoir site and at several sites downstream. Pursuant to these Applications, Permit Nos. R-273/01-2065 and 15201/01-2041 were issued by the Department.

On June 20, 1931, the applicant submitted Proofs of Completion of Works claiming that the works had been complete and required under the provisions of Permits 15201/01-2041 and R-273/01-2065. On September 29, 1932, the Department of Reclamation informed the permit holder that it intended to reject the Proofs of Completion of Works and refuse to issue a Certificate, since a Certificate of Completion of Works had previously been issued to the United States of America. Bureau of Reclamation, for the full capacity of the reservoir constructed at the proposed site. The Department further informed the Idaho Power Company that it appeared that the Company rights to divert and store water at that location had been waived and compensated for by contractual agreement between the Company and the United States.

In July of 1967, the Department requested that the Company review the matter and give comments prior to action being taken to cancel the permits. Correspondence was received from the Company, on November 9, 1967, asking the Department to issue the required Certificate to complete the permits and contending that Licenses should be issued.

On October 1, 1970, an Order to Show Cause why the permits chould not be cancelled was issued to Idaho Power Company by the Department. On December 1, 1970, a brief was timely submitted by the Idaho Power Company setting forth, among other things, the terms and conditions of agreements between the Company and the United States.

STATE OF IDAHO DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2 Boise, Idano 83707 (208) 384-2215



R. Keith Higginson Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

THE MATTER OF CANCELLATION OF PERMIT APPROPRIATE THE PUBLIC WATERS OF THE APPROPRIATE THE PUBLIC WATERS OF THE CANCELLATION ORDER OF CANCELLATION ORDER OF CANCELLATION ORDER OF CANCELLATION
WHEREAS, the permit holder has failed to submit adequate proof of completion of works due June 21, 1931; and, WHEREAS, on October 1, 1970 notice was sent to the holder of said permit to appear before the Director of the Department of Water Administration
on or before December 1, 1970 to show eacher and
WHERFAS, the holder of said permit has failed to comply with the require- ments of said permit and has not shown adequate cause why such permit should not
IT IS THEREFORE ORDERED and Permit R-273/01-2065 is hereby CANCELLED. Dated this 22nd day of April , 19_71 .

R. KETTH HIGGINSON

Director

STATE OF IDAHO DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2 Boise, Idaho 83707 (208) 384-2215



R. Keith Higginson Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

ORDER OF CANCELLATION

IN THE MATTER OF CANCELLATION OF PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE

STATE OF IDAHO NO. 15201/01-2041

IN THE NAME OF Idaho Power Company

O

WHEREAS, the permit holder has failed to submit adequate proof of and, completion of works due June 21, 1931 ; and,

WHEREAS, on Ootober 1, 1970 notice was sent to the holder of said

WHEREAS, on October 1. 1970 notice was sent to the holder of said permit to appear before the Director of the Department of Water Administration on or before December 1, 1970 to show cause why said permit should not be cancelled; and,

WHEREAS, the holder of said permit has failed to comply with the requirements of said permit and has not shown adequate cause why such permit should not be cancelled;

THE IS THEREFORE ORDERED and Permit 15201/01-2041 is hereby CANCELLED.

Dated this 22nd day of April , 19 71 .

R. KEITH RIGGINSON

Director

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER ADMINISTRATION OF THE

STATE OF IDAHO

IN THE MATTER OF PERMITS
NO 15201/01-2041 and
R-273/01-2065 in the name
of IDAHO POWER COMPANY

ANSWER TO ORDER TO SHOW CAUSE

COMES NOW, IDAHO POWER COMPANY (hereinafter called "Company") and for its answer to Order to Show Cause as to why Proof of Completion of Works should not be rejected and Permits 15201/01-2041 and R-273/01-2065 cancelled, states and alleges as follows:

I

That the Company, or its predecessors, in 1901 commenced construction of generating plant at American Falls, Idaho, known as the "Island Plant." As power requirements increased, this plant was supplemented by construction at American Falls of the "West Side Plant" and, subsequently, the "East Side Plant."

That prior to June 15, 1923, the Company owned and operated a dam and the three power plants with a total of 4,040 KW generating capacity at American Falls. These plants provided the Company's entire power generation for the American Falls-Blackfoot-Pocatello area, and were a source of large potential development to serve the future power needs of southeastern Idaho.

That the Power Company was preparing to enlarge its dam and generating stations to meet the rapidly growing power demand. Its plans included a storage reservoir which would not only make possible the installation of additional power capacity at American Falls to meet local needs, but also would have served to increase the firm capacity of its downstream plants at Shoshone, Lower Salmon and Swan Falls.

II

That the Company had made or acquired various filings and/or rights on waters of the Snake River for storage and use

of such water for power production at its existing plants and also for its proposed plant expansion, as follows:

- (a) Appropriation under Water Location by Andrew J Tarbet for 6000 cfs of the waters of Snake River on July 15, 1901, recorded in Blaine County, Idaho, in Book 4 of Water Rights at Page 266.
- (b) Appropriation under Water Location by J E Brady for 2000 cfs of the waters of Snake River on August 1, 1901, recorded in Blaine County, Idaho, in Book 4 of Water Rights at Page 265.
- (c) Permit No 4168 for 6000 cfs of the waters of Snake River, issued by the State Engineer of the State of Idaho to American Falls Power Company on Application filed September 3, 1908.
- (d) Permit No 14067 for 4600 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed April 7, 1919.
- (e) Permit No 13947 for 1500 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to E C Kiersted on Application filed December 26, 1918.
- (f) Permit No 14909 for 500 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed June 25, 1920.
- (g) Appropriation under Water Location by I B Perrine for 1000 cfs of the waters of Snake River on November 1, 1901, recorded in Lincoln County, Idaho, in Book 1 of Water Rights at Page 241.
- (h) Appropriation under Water Location by Arturus Z Conrad for 1000 cfs of the waters of Snake River on September 13. 1902, recorded in Lincoln County, Idaho, in Book 1 of Water Rights at Page 251.
- (i) Permit No 14881 for 1000 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed August 9, 1920.
- (j) Permit No 13948 for 5000 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to E C Kiersted on Application filed December 26, 1918.
- (k) Permit No 3685 for 6000 cfs of the waters of Snake River, issued by the State Engineer of the State of Idaho to Fentress Hill on Application filed May 11, 1908.
- (1) Appropriation under Water Location by Joseph H Hutchinson for 10000 cfs of the waters of Snake River on January 17, 1900, recorded in Owyhee County, Idaho, in Book 3 of Water Rights and Millsites at Page 750.

- (m) Appropriation under Water Location by Joseph H Hutchinson for 10000 cfs of the waters of Snake River on May 4, 1900, recorded in Owyhee County, Idaho, in Book 3 of Water Rights and Millsites at Page 761.
- (n) Permit No 14362 for 4000 cfs of the waters of Snake River, issued by Department of Reclamation of the State of Idaho to Idaho Power Company on Application filed July 29, 1919.
- (o) Permit No 15201 by Idaho Power Company according to Application No 21476 filed on March 17, 1921.
- (p) Permit No R-273 by Idaho Power Company for storage of 300,000 acre feet per annum of the waters of Snake River filed on March 11, 1921 and approved on June 28, 1921.

III

This was a period of rapid growth in southern Idaho, and the need for additional water for irrigation development was increasing. American Falls was selected by the Bureau of Reclamation as an ideal site for a large and economical reservoir for the storage of water for irrigation use. The United States of America, acting through its Secretary of the Interior, and pursuant to appropriate acts of Congress determined to build a large irrigation storage reservoir at American Falls, using as a part of its reservoir land owned by the Company. This reservoir would require the destruction of two of the Company's plants (West Side and Island plants) and would prevent the Company from developing its own storage reservoir for power production. The Company already owned much of the necessary lands and flooding easements, which it had purchased and obtained for its own reservoir development.

IV

That in order to enable the United States of America to construct the irrigation storage reservoir, the United States and the Company developed a plan under which the Company reserved its existing water rights, and conveyed the necessary portions of its real property and easements to the United States. The Company

retained its East Side generating station with its appurtenant diversion dam, and was guaranteed by the United States the right to the amount and time of use of its reserved water rights. To effectuate this plan a contract was entered into between the United States and the Company on the 15th day of June, 1923, a copy of which is hereto attached as Exhibit A and is hereby made a part of this answer.

V

That under the said contract the Company's rights to storage in the reservoir to be constructed by the United States to the extent of the 300,000 acre feet covered by Permit No R-273 issued by the Commissioner of Reclamation of the State of Idaho under the date of June 28, 1921, were preserved, defined and specifically provided for as follows:

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"In part consideration for the rights and property to be conveyed to the United States by the Company, and as a part of the cost of the proposed development at American Falls the United States grants to the company and the company shall be entitled to the perpetual use of 45,000 acre-feet of storage capacity in the reservoir to be constructed by the United States, such capacity to be for storing the water reserved to the company, and the water referred to in the last sentence of Paragraph 10, the company's right to such storage capacity to be on an equal basis in all respects, except as otherwise provided herein, with other primary storage capacity rights in the reservoir, as defined in the contracts between the United States and the Irrigation Companies and Districts cooperating with the United States in the construction of said reservoir, a form of which contract is attached hereto and marked Exhibit 'C'." (paragraph 16, pp 17 and 18, Exhibit A)

"Between October 1st of any year and June 10th of the following year, the company shall have and is hereby granted for the purpose of regulating and controlling the water reserved to the company under Paragraph 19 hereof, and the water which may be acquired under the last sentence of Paragraph 10, a secondary right to use not to exceed 255,000 acre-feet of storage capacity in the reservoir when such capacity is not then required and not being used by the owners of irrigation rights to the use of such capacity, but shall have no further right to use any part of said 255,000

acre-feet of capacity or any water stored therein after the reservoir is first filled each season, and the company shall in any event release on April 1st of each year all right and claim to such capacity and water stored therein, except 60,000 acre-feet, and shall release all right and claim to the remainder, if any, on June 10th of each year." (paragraph 18, p 19, Exhibit A)

That said contract specifically provided that the Company was not surrendering, or in any way disposing of its existing water rights but was only permitting the United States to use them in connection with its American Falls Reservoir, subject, however, to the Company's reserved rights as follows:

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"WHEREAS the company has at American Falls water filings prior to the American Falls filings of the United States sufficient to embrace the entire amount of water reserved to the company under this contract." (paragraph 6, pp 2 and 3, Exhibit A)

"(d) All the company's water rights, appropriations water filings and permits, at American Falls, or used or intended to be used in connection with the company's power plants and proposed plants at American Falls, except the rights, whether primary or tertiary, expressly reserved to the company, as hereinafter set out. The water rights of the company transferred to the United States for use for power purposes shall be considered as impressed with a right in the United States to change the use of such water from power to irrigation or to store the same for irrigation whenever the Secretary of Interior shall decide that such water is required for irrigation purposes. But it is expressly agreed and understood that the water rights and rights to the use of water which it is herein agreed that the Company shall have are reserved out of its existing appropriations and rights as independent rights under its own filings and appropriations and of the dates of priority to which the Company is entitled under such appropriations and are not to be considered as mere contract rights under contract with the United States." (paragraph 9(d), p 11, Exhibit A)

"It is the intent of this agreement that all power rights at American Falls except those granted to the United States herein shall be reserved to the company and that the deeds and conveyances by the company and that the deeds and conveyances by the company to the United States may contain a reservation in favor of the company of the rights reserved to it under the provisions of this agreement." (paragraph 30, p 30, Exhibit That as a part of the plan for the American Falls reservoir the United States had applied for and received from the Commissioner of Reclamation of the State of Idaho, under the date of March 30, 1921, Permit No R-269 for the storage of 1,700,000 acre-feet in said reservoir and Permit No 15134 for direct diversion of 8,000 second feet in connection therewith.

That the existence of the Company's permits and water rights described in paragraph II, supra, were known to the parties at the time of the execution of the contract of June 15, 1923 (Exhibit A hereto), and the contract provisions referred to in paragraphs IV and V, supra, for protecting the Company's right to 300,000 acre-feet of storage covered by its Permit R-273 contemplated that said storage water was included in and formed a part of Permit R-269 and would be provided to the Company from waters stored under Permit R-269.

That in fact, while all the Company's reserved rights were considered in the contract (Exhibit A hereto), the contract specifically provided that said rights were reserved and were "* * * not to be considered as mere contract rights * * *."

VII

That the said reservoir was subsequently constructed and thereafter the United States made all necessary proofs required by the laws of Idaho and proper licenses have been issued to the Secretary of the Interior for the waters covered by Permit Nos R-269 and 15134.

VIII

That in addition to the aforementioned contract with the Company, the Secretary of the Interior entered into numerous contracts with irrigation districts, canal companies and individuals wherein he agreed to make available to them for irrigation use on lands irrigated by them, specific quantities of storage space and

the waters annually stored therein, and that at the present time there are such contracts outstanding covering substantially all of the capacity of said reservoir.

ΙX

23.0 23.00 That by operation of law the Secretary of the Interior holds the water available in American Falls Reservoir under Permit Nos R-269 and 15134 as trustee for the Company and all other contract holders. The Company has continuously applied to a beneficial use its rights in said stored water, as have all other contract holders; and the Company and all other such contract holders are the equitable owners of the right to so use these waters.

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That a decree was entered in the District Court of the United States for the District of Idaho, Eastern Division, on June 25, 1929, in an action entitled Woodville Canal Co, Plaintiff, versus Clark and Edwards Canal and Irrigation Co, et al, Defendants, adjudicating water rights in Snake River at and above Milner Dam, including those at American Falls. That the numerous parties to said action included many of the water users on the river who claimed rights in American Falls Reservoir, together with the Secretary of the Interior. In such action a stipulation was entered into which was incorporated in the decree which read in part as follows:

"It is further stipulated and agreed that there shall be decreed in the above entitled cause of action, to the Secretary of the Interior of the United States, and his successors in office, for use upon the various projects which have heretofore or may hereafter become entitled to the same by reason of contracts with the United States therefor, the water filed upon by the United States in connection with the construction of the American Falls Reservoir under permit number 15134, and reservoir permit number R-269, under date of priority of March 30th, 1921, the amount of water to be decreed to the Secretary of the Interior of the United States and his successor in office for such use under said date of priority of March 30th, 1921, to be One Million Seven Hundred Thousand (1,700,000) acre-feet per annum for storage in the

American Falls Reservoir and Eight Thousand (8,000) second feet for direct diversion. It is understood and agreed that paragraph two hereof does not apply to the said rights of priority of March 30, 1921, provided for in this paragraph or the rights decreed in the Foster and Rexburg decrees."

"It is stipulated and agreed that the rights of contract holders and any others beneficially interested, now or hereafter claiming or having storage reservoir rights in American Falls Reservoir shall not be affected or determined by the decree to be entered in this action, as to the use to be made of the waters decreed, under such decree, to the Secretary of the Interior under permits described in paragraph No. 4, of this stipulation, the same being permits No. 15134 and R-269."

and concerning which the decree provided:

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"Now therefore, the said stipulation is hereby approved and confirmed by the Court and adopted as a part of this decree, * * * ."

WHEREFORE, the Company hereby requests that the Director of the Department of Water Administration enter an order ringing (a) that all of the rights of the Company covered by Permit Nos R-273 and 15502 have been merged into rights granted to the Secretary of the Interior in Permit Nos R-268 and 15134; (b) that the Secretary of the Interior holds and maintains the rights under said permits as trustee for the Company of all of the rights covered by Permit Nos R-273 and 15502; and (c) that in accordance therewith no further action need be taken with respect to Permit Nos R-273 and 15502.

Dated this 1st day of December, 1970.

R P PARRY Twin Falls, Idaho

JAMES E BRUCE Boise, Idaho

Attorneys for Idaho Power Company